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7 UNITED STATES DISTRICT COURT
8
9 NORTHERN DISTRICT OF CALIFORNIA
10
11 SAN FRANCISCO DIVISION

11 UNITED STATES OF AMERICA,

12 Plaintiff,

13 v.

14 KENNY MATTHEW MIKSCH,

15 Defendant.
16

Case No. 3:21-cr-00121-JD

**ADMINISTRATIVE MOTION FOR
RECONSIDERATION OF DENIAL OF
STIPULATION TO CONTINUE JULY
12, 2021 APPEARANCE**

17 **ADMINISTRATIVE MOTION¹**

18 On May 13, 2021, this Court set a First Appearance date for all defendants in this matter
19 of July 13, 2021. Dkt. 47. On July 6, 2021, however, the Court altered that date, re-setting the
20 matter for the morning of July 12, 2021. Dkt. 50.

21 Having conferred throughout the prior week regarding discovery, plea negotiations,
22 and logistics, the parties submitted to this Court on July 9, 2021 a stipulation to continue the
23 First Appearance to July 26, 2021. Dkt. 51. This Court denied that request. Dkt. 52.
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26 ¹ Because the present motion relates to, arises from, and reaffirms the request included within a
27 previously filed stipulation (dkt. 51), an additional stipulation pursuant to Civ. L.R. 7-11(a) has
28 not been attached. Rather, counsel relies on the existing stipulation at dkt. 51 as an attestation of
the parties' joint position and submits the present motion in compliance with L.R. 7-11.

ADMINISTRATIVE MOTION FOR RECONSIDERATION OF DENIAL OF STIPULATION TO CONTINUE
JULY 12, 2021 APPEARANCE

United States v. Miksch;

Case No. 3:21-CR-00121-JD

1 Mr. Miksch now files the present administrative motion requesting the Court reconsider
2 its denial of the stipulated continuance and setting of a First Appearance date of July 13. It is
3 true that for all of the reasons set forth in the stipulation, the parties believed, and believe, a
4 future date of July 26, 2021 would be a more efficient use of resources. But it is also true that
5 when this Court re-set the First Appearance, moving it from July 13 to July 12, it created a
6 scheduling conflict for Mr. Miksch's counsel. Mr. Miksch's lead attorney, David J. Cohen,
7 Esq., is presently set to appear in the Eastern District of California in another case, *United*
8 *States v. Marifat* (case no. 2:17-cr-189), on the morning of July 12, 2021. This appearance in
9 *Marifat* was scheduled on June 14, 2021, before the appearance in this matter was moved from
10 July 13 to July 12. Of course, Mr. Cohen will be unable to appear in both cases on the same
11 morning of July 12, 2021.
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14 Undersigned counsel did not raise this scheduling conflict with the Court earlier in the
15 week because all parties were conferring throughout the week and developing the joint
16 stipulation ultimately submitted to the Court earlier this morning. Because the Court denied
17 the stipulation, however, the present administrative motion is necessary to bring to the Court's
18 attention the scheduling conflict generated by the July 6 clerk's notice. Dkt. 50.
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Accordingly, Mr. Miksch requests this Court reconsider its denial of the stipulated continuance to July 26, 2021. If the Court is not amenable to the stipulated July 26 date, counsel requests the Court specially set the First Appearance and suggests the original date of July 13, 2021 at 1:00 p.m. as a time and date when undersigned counsel is still available (and with the expectation that the other parties also remain available for that previously scheduled time).

Respectfully submitted,

BAY AREA CRIMINAL LAWYERS, PC

Dated: July 9, 2021

By: /s/ David J. Cohen, Esq.

DAVID J. COHEN, ESQ.

Attorneys for Defendant **Kenny Miksch**

[PROPOSED] ORDER

Based upon the facts set forth in the stipulation of the parties and the representations made to the Court and for good cause shown, the Court continues the First Appearance currently set for July 12, 2021, to _____.

The Court further finds that failing to exclude the applicable time would unreasonably deny defense counsel and the defendant the reasonable time necessary for effective preparation. 18 U.S.C. § 3161(h)(7)(B)(iv). The Court further finds that the ends of justice served by excluding the applicable time from computation under the Speedy Trial Act outweigh the best interests of the public and the defendant in a speedy trial. Therefore, and with the consent of the parties, **IT IS HEREBY ORDERED** that the time from July 13, 2021 through

1 _____ shall be excluded from computation under the Speedy Trial Act. 18
2 U.S.C. § 3161(h)(7)(A), (B)(iv).
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4 **IT IS SO ORDERED.**
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8 Dated: _____

9 _____
10 THE HONORABLE JAMES DONATO
11 UNITED STATES DISTRICT COURT JUDGE
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